

Child and Family Services Update

Wednesday, February 6, 2002

2002 Legislative Session Update

By Adam Trupp

I thought it might be helpful to you if I, as the Child and Family Services Legislative Liaison (at least for this year), provided a brief summary of some of the legislative action that has taken place so far. Therefore, what follows is an update on the status of, and perceived effects of, various bills relating to Child and Family Services. As we know too well, every year there is a lot of legislation that impacts us in some way. I have identified only those that have the most immediate impact and which are not being separately addressed by EDO. Please contact me or check the Utah State Legislature website for additional information and the text of these bills.

You can also use that site to identify contact information for your Senator and Representative. I encourage each of you to contact your legislators and to voice your opinion on proposed legislation regardless of whether you support or oppose the positions set forth below. As you know, when taking a position on legislation you may not use Child and Family Services resources or make contact while on state time. However, every legislator has an e-mail, fax, or phone number that can be used to reach him or her during off work hours.

HB 28 – Immunity in Child Welfare Investigations

Status: Passed by House; approved by Senate committee; coming to floor of the Senate soon

This is the bill that I think most of us are most worried about. The bill intends to make clear that a Child and Family Services worker can lose their immunity from lawsuit and be held personally liable when they commit certain specified actions. Those actions include lying under oath, fabricating evidence or committing fraud, and acting with malice. This bill has proceeded easily and it could pass.

It is important for you to know that this bill **does not change the law or create a new claim against Child and Family Services workers**. We are all currently protected by governmental immunity only so long as we do our jobs in compliance with the law. So you will not face any new liability. The problem with this bill, as we see it, is that it provides a solution to a problem that doesn't exist, and is insulting to our staff in the process. At the very least, if the Legislature believes this law is necessary, they should apply the same standard to all State employees.

We have taken a strong stand against this bill and will continue to do so.

HB 204 – Responsibility of the Attorney General to Represent DCFS

Status: Passed by House; approved by Senate committee; coming to Senate floor soon

This bill has passed out of committees in both the House and Senate. It has passed the House and will come to the Senate soon. It was amended from the first version in an effort to make the role of the Attorney General's office with regard to Child and Family Services more clear. It did not accomplish that and at present appears to do nothing.

We have not taken a position on this bill because we do not believe it will, by itself, resolve the challenges presented by the relationship between Child and Family Services and the Attorney General's office.

HB 226 – Termination of Parental Rights Amendments

Status: Passed by House (as amended); approved by Senate committee; coming to Senate floor

This bill has passed through both the House and Senate committees. It was passed by the House on February 5. It changes the grounds for terminating parental rights by eliminating the ability of the court to terminate parental rights because the parent has not completed a treatment plan. The fact that the plan was not completed can still be used as evidence supporting termination. The bill also requires that in cases where reunification services are offered the court must find that Child and Family Services made reasonable efforts to provide those services before it can terminate parental rights. This is a change and a limit on our ability to seek termination, but it will only apply to cases in which the court finds our efforts to have been less than "reasonable."

The bill also would add the requirement that the court hold a hearing no more than six months after the initial removal of a child from their home and determine, on the record, whether the treatment plan constitutes "reasonable efforts" and to identify the responsibilities of Child and Family Services and the parents. We believe that this will make a positive change in the law.

Despite some remaining problems with this legislation, we are supporting this bill.

HB 295 – Amendments to Warrant Requirement

Status: Approved by House committee; amended by sponsor; coming to House floor

This bill makes changes to the requirement that we obtain a warrant prior to removing a child except in certain emergency circumstances. The original bill was passed in 2001. This change clarifies when a warrant is necessary. It also makes clear that once a petition has been filed, a child can be removed from their home only with a court order or in an emergency.

This bill will make some changes to practice. If it passes, warrants will be requested more often than they have been over the past year. However, the language is not overly restrictive and it will enable us to continue to keep the immediate safety of children as our top priority when making decisions on removal.

The first version of this bill has passed the House committee but has not come to the floor yet. The first version is confusing. The sponsor will offer a substitute. That substitute is not yet public.

SB 17 – DCFS Management Information System

Status: On Senate floor – pending (a substitute for the first version will be offered)

This bill addresses a number of issues and is very complicated. It is also on its fourth draft. At the moment I do not even have a copy. We have been working with the sponsor who has been very receptive to Richard's suggestions and has made substantial changes to meet the concerns expressed by many people. The effects of this change will be substantial although the effect on daily practice may be limited (no one is quite sure).

The bill does several things:

1. Limits the reporting of information to Licensing to those referrals in which a finding has been made by a juvenile, or criminal court;
2. Changes our finding of "substantiated" to "supported" and restricts us from reporting certain information to Licensing;
3. Provides alleged perpetrators the opportunity to challenge a finding by Child and Family Services by requesting a court hearing instead of an Administrative Hearing prior to the entry of a finding of "substantiated";
4. Provides the Juvenile Court the authority to make findings of "substantiated," "unsubstantiated," or "without merit" after the filing of a petition and a hearing on that issue.

The bill makes other changes but those I have set out above are the most significant. The bill still has a number of problems but, as currently written, it appears to be okay. We are supporting this bill unless the final version comes out much different than we expect. This will make changes to the way we do some of our business but we hope the benefits will be worthwhile.

SB 110 – Child Placement Determinations

Status: Passed House and Senate and will be sent to the Governor for signing

The bill clarifies when a "planned permanent living arrangement" other than return home, guardianship, or adoption is appropriate. This will bring our state law into conformity with federal law. It also clarifies the circumstances that justify removing a child from a foster parent with notice but without a hearing. It also equalizes the background check requirements between kinship homes and foster homes by

changing the fingerprinting requirements for persons residing in a kinship home to conform to those that apply to foster homes.

This bill was requested by Child and Family Services. It has moved forward easily.

The Legislature adjourns temporarily on Thursday, February 7. They will return and take up where they left off on February 25. If you have any questions or comments please let me know. I will send a further update before the end of the session.

I am not providing any information on budget issues in this update because that area is still quite unsettled. I will say that to this point we have been well taken care of and, while we will all suffer some, we are doing okay. We will provide a detailed summary on the budget after the numbers are finalized.

Points to Ponder--Domestic Violence and Sports

By Kate Jensen

A recent press release from The National Resource Center (NRC) on Domestic Violence suggests no national studies have been conducted to link any sports broadcasts to an increase in domestic violence, child abuse, or sexual assault.

The NRC suggests that Super Bowl Sunday should not be singled out as a day of increased risk as it is only one day in 365 when domestic violence occurs. February 3 has come and gone, but children and adult victims will continue to be threatened and abused.

Child and Family Services has the responsibility to provide services to those individuals involved in domestic violence. SAFE provides workers with tools for assessment and safety planning. These “print only” documents are available in the Domestic Violence section under “Forms.”

The “Risk of Danger” form is a set of questions that can be used to engage an adult victim in assessing the need for intervention, resources, and referrals.

Individual Safety Plans are not a guarantee that safety will occur, but can be an effective tool for identifying steps that a victim can take to increase safety.

If you are interested in additional information on the use of the forms or would like resource information, you may contact your state or regional domestic violence program staff, who are listed below. We suggest you print a few forms to carry in your planner or toolkit.

- Kate Jensen, Domestic Violence State Specialist, State Office.
- Dawn Hollingsworth, Domestic Violence Coordinator, Northern Region.
- Terri Yelonek, Domestic Violence Coordinator, Eastern Region.
- Deborah Robertson, Domestic Violence Coordinator, Salt Lake Valley Region.

- Susan Knadler, Domestic Violence Coordinator, Western Region.
- Rickell James-Irish, Domestic Violence Coordinator, Southwest Region.

For additional resources, you may log on to the following web sites:

- Family Violence Prevention Fund at www.endabuse.org.
- National Coalition Against Domestic Violence at www.ncadv.org/.

If you are in immediate need of resource information, call the 24-hour domestic violence information and referral line at 1-800-897-LINK.

Practice Model Journey

By Midge Delavan

The final module of the Practice Model for casework was trained to the Practice Model facilitators during the week of January 21, 2002. This module takes the point of view of the family's journey through the "system."

Where does this journey begin for us as Child and Family Services employees? Where does the Practice Model begin to be applied? If the answer to this question is in Intake, how does the Intake person begin the process? If Intake begins the process, how is it transitioned from Intake to CPS to an Out-of-Home or In-Home service? How do we know that it is time for the family to graduate?

Of course, we know that these questions include other questions, such as: Who helps the family identify the team members? When does the team begin to meet? How is the team prepared for its work? How do I facilitate the team meetings well? When should meetings occur? These questions are not new ones. They come together in this module to help create a conceptual map of the journey.

What is the family's experience of that journey? How do they experience their involvement with Child and Family Services? We follow the "Simmons" family through the module to empathize with their experience and understand how our practice impacts that experience and its outcome. How does a caseworker intervene to lead the family and their team to address their needs through their strengths? What is an intervention? Listening, finding resources...what is on your list?

Congratulations on the interventions you are already so successful with. Enjoy the new possibilities you may create doing strengths-based, family-centered teamwork.